

Introduced by Senator Maldonado

May 9, 2006

Senate Constitutional Amendment No. 32—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 5 of Article XVI thereof, relating to public funds.

LEGISLATIVE COUNSEL'S DIGEST

SCA 32, as introduced, Maldonado. California missions: preservation.

The California Constitution generally prohibits the Legislature and any county, city and county, township, school district, or other municipal corporation from making an appropriation, paying from a public fund, or granting anything to or in aid of any religious sect, church, creed, or sectarian purpose, or helping to support or sustain any school, college, university, hospital or other institution controlled by any religious creed, church, or sectarian denomination, or from granting or donating personal property or real estate to any religious creed, church, or sectarian purpose.

This measure would permit these entities to make an appropriation, payment, or grant from a public fund or to donate personal or real property to a nonprofit organization for the preservation of an historic building or facility owned or controlled by, or identified with, a religious creed, church, sectarian denomination, or nonprofit organization organized for religious purposes, provided that the preservation is for the benefit of the public, and the assistance is not provided primarily for sectarian purposes of a particular religious creed, church, sectarian denomination, or nonprofit organization organized for religious purposes.

The measure would specify that an appropriation, payment, or grant from a public fund or a donation of personal or real property authorized by its provisions is not the establishment, promotion, or preference of or for religion for purposes of the California Constitution.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

1 *Resolved by the Senate, the Assembly concurring,* That the
2 Legislature of the State of California at its 2005–06 Regular
3 Session commencing on the sixth day of December 2004,
4 two-thirds of the membership of each house concurring, hereby
5 proposes to the people of the State of California, that the
6 Constitution of the State be amended as follows:

7 That Section 5 of Article XVI thereof is amended to read:

8 SEC. 5. (a) Neither the Legislature, nor any county, *city*, city
9 and county, township, school district, or other municipal
10 corporation, shall ever make an appropriation, or pay from any
11 public fund whatever, or grant anything to or in aid of any
12 religious sect, church, creed, or sectarian purpose, or help to
13 support or sustain any school, college, university, hospital, or
14 other institution controlled by any religious creed, church, or
15 sectarian denomination whatever; nor shall any grant or donation
16 of personal property or real estate ever be made by the State, or
17 any *county*, city, city and county, ~~town~~ *township*, or other
18 municipal corporation for any religious creed, church, or
19 sectarian purpose whatever; provided, that nothing in this section
20 shall prevent the Legislature granting aid pursuant to Section 3 of
21 Article XVI.

22 (b) (1) *Notwithstanding subdivision (a) or any other provision*
23 *of this Constitution, the Legislature, or any county, city, city and*
24 *county, township, school district, or other municipal corporation,*
25 *may make an appropriation, payment, or grant from a public*
26 *fund or a donation of personal or real property to a nonprofit*
27 *organization for the preservation of an historic building or*
28 *facility owned or controlled by, or identified with, a religious*
29 *creed, church, sectarian denomination, or nonprofit organization*
30 *organized under the laws of this State for religious purposes,*
31 *provided that the preservation of the historic building or facility*
32 *is for the benefit of the public, and the appropriation, payment,*

1 *or grant of money, or donation of personal or real property, is*
2 *not made primarily for sectarian purposes of a particular*
3 *religious creed, church, sectarian denomination, or nonprofit*
4 *organization organized under the laws of this State for religious*
5 *purposes.*

6 *(2) An appropriation, payment, or grant of money, or a*
7 *donation of personal or real property, made pursuant to*
8 *paragraph (1) is not the establishment, promotion or*
9 *advancement, or preference of or for any religion or sectarian*
10 *purpose, and shall not be construed as the appearance thereof, in*
11 *violation of Section 4 of Article I or any other provision of this*
12 *Constitution.*

13 *(3) For the purposes of this subdivision, the following*
14 *definitions apply:*

15 *(A) "Historic building or facility" means a building or facility,*
16 *or any portion thereof, listed as a National Historic Landmark or*
17 *in the National Register of Historic Places, as specified in*
18 *federal law, or in the California Register of Historic Resources,*
19 *as specified by statute, that is available for the use or enjoyment*
20 *of the public.*

21 *(B) "Nonprofit organization" means any nonprofit public*
22 *benefit corporation that is formed pursuant to statutes governing*
23 *nonprofit public benefit corporations in this State, qualified to do*
24 *business in California, and qualified as exempt from taxation*
25 *under federal law, that has, among its principal charitable*
26 *purposes, the preservation of historic or cultural resources for*
27 *cultural, scientific, historic, educational, recreational,*
28 *agricultural, or scenic purposes.*

29 *(C) "Preservation" includes, but is not limited to,*
30 *identification, research, maintenance, evaluation, recordation,*
31 *restoration, stabilization, development, reconstruction, and*
32 *seismic retrofitting, and any combination of those activities.*